

455B.601 Pesticide and fertilizer contaminated sites — prioritization of cleanup.

1. The commission shall adopt rules to establish criteria for the classification and prioritization of sites upon which contamination has been discovered.

a. A contaminated site shall be classified as either high, medium, or low priority.

(1) A site shall be considered high priority under any of the following conditions:

(a) Groundwater contamination exceeds action levels and is affecting or likely to affect groundwater used as a drinking water source.

(b) Contamination is affecting or likely to affect surface water bodies to a level which exceeds surface water quality standards under section 455B.173.

(c) Contamination is discovered in an ecologically sensitive area. An ecologically sensitive area is one which is designated by the department.

(2) A site shall be considered medium priority if contamination of groundwater exceeds action levels, but does not meet the criteria for classification as a high priority site.

(3) A site shall be considered low priority under any of the following conditions:

(a) If soil contamination exists at the site, but no groundwater contamination exists at the site.

(b) If soil contamination exists and groundwater contamination has been discovered, but is below action levels.

(4) A site shall be reclassified as a site with a higher or lower classification when the site falls within a higher or lower classification as established under this paragraph.

b. An initial site plan shall be developed by the responsible person and approved by the department for each site upon which contamination has been discovered. The site plan shall include all of the following:

(1) A determination as to the extent of the existing soil, groundwater, or surface water contamination.

(2) The proximity of the contamination and the likelihood that the contamination will affect a drinking water well.

(3) The characteristics of the site and the potential for migration of the contamination.

(4) A recommendation as to whether the site should be classified as a high, medium, or low priority site.

(5) If a site is classified as a high or medium priority site, further investigation shall be conducted to determine the extent of the remediation which should be conducted on the site.

c. A responsible person shall remediate a contaminated site according to standards established by rules adopted pursuant to chapter 17A. Remediation for high, medium, or low priority sites shall be administered in accordance with the following:

(1) Soils and groundwaters on a high priority site shall be subject to active cleanup, where technically feasible, until such time as the groundwater contamination levels are below action levels.

(2) Remediation on a medium priority site shall include either monitoring or active or passive site cleanup as determined by the department on a site-by-site basis based upon the findings of the site plan. Remediation on a medium priority site shall include at least that which would be required on a low priority site.

(3) (a) Active site cleanup for soil shall be required on a low priority site if remediation would be more practical and cost-effective than monitoring.

(b) If active site cleanup for soil on a low priority site is undertaken, no further action shall be required on the site.

(c) If active site remediation for soil is not undertaken on a low priority site, the site shall be monitored, for a specified period of time as determined by the department.

2. This section is applicable to a site upon which contamination has been discovered, unless one of the following applies:

a. Remediation on the site has already been approved by the department and implemented.

b. A responsible person has executed a remediation agreement with the agrichemical remediation board and the responsible person is remediating or has remediated the site pursuant to a plan of remediation as provided in chapter 161.

3. Application of contaminated groundwaters and soils on land upon which the

contaminants have been applied in accordance with department rules shall not exceed a level which would preclude the resumption of normal farming practices within a two-year period.

4. This section does not affect the ability of the department or the United States environmental protection agency to require monitoring or remediation on sites that are placed on the national priorities list pursuant to the federal Comprehensive Environmental Response, Compensation and Liability Act.

92 Acts, ch 1239, §48; 2000 Acts, ch 1184, §11 – 13; 2002 Acts, ch 1119, §175

Classification and prioritization of sites by department of agriculture and land stewardship; §161.6